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June 29, 2023

**VIA ECF**

The Honorable Kenneth M. Karas  
United States District Judge  
United States Courthouse  
300 Quarropas Street  
White Plains, New York 10601-4150

Re: Lane, et al., v. Nigrelli, et al., 22 Civ. 10989 (KMK)

Dear Judge Karas:

This Office represents Steven Nigrelli, sued in his official capacity as Acting Superintendent of the New York State Police ("Superintendent"). We write to bring to the Court's attention the Second Circuit's recent decision in *Vitagliano v. County of Westchester*, No. 23-30, ---F.4th---, 2023 WL 4095164 (2d Cir. June 21, 2023), which was issued the day after the Superintendent filed the reply in support of his motion to dismiss the Complaint. *Vitagliano* held that it was not necessary for the plaintiff to be subjected to a "past enforcement action or an overt threat of prosecution directed at the plaintiff" to establish an injury in fact, and distinguished its earlier decision in *Adam v. Barr*, 792 F. App'x 20 (2d Cir. 2019). *Id.* at \*7.

To the extent the Superintendent's motion cited *Adam* in arguing that Plaintiffs were required to allege a particularized threat of criminal enforcement to establish standing, the Superintendent withdraws that argument. However, Plaintiffs' lack of licensure at the time the Complaint was filed remains a separate and complete bar to standing in this case, a conclusion that is unaffected by the *Vitagliano* decision. The Superintendent thanks the Court for its attention to this matter.

Respectfully submitted,

/s/  
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cc: Counsel for all Parties via ECF